

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2006 MAY 16 PM 1:19

999 18TH STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2006-0027

IN THE MATTER OF:

**ALL-PHASE CONCRETE
CONSTRUCTION, INC.**

FINAL ORDER

RESPONDENT

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

MAY 16 2006

DATE _____

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Robbie E. Roberts
Regional Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2006 MAY 16 AM 8:10

In the Matter of:

All-Phase Concrete Construction, Inc.)

Respondent.)

EXPEDITED CONSENT AGREEMENT

DOCKET NO.: CWA-08-2006-0027

FILED
EPA REGION VIII
HEARING CLERK

Complainant, United States Environmental Protection Agency, Region VIII, and Respondent, All-Phase Concrete Construction, Inc., by their undersigned representatives, hereby settle the civil cause of action arising out of a spill of oil that occurred on or about February 5, 2005, and agree as follows:

The Clean Water Act (the Act), as amended, authorizes the Administrator of EPA to assess administrative penalties against any person who discharges oil into or upon the navigable waters and adjoining shorelines of the United States in quantities that have been determined may be harmful to the public health or welfare or environment of the United States, 33 U.S.C. § 1321(b)(6) and (b)(3) or any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This determination includes discharges of oil that (1) violate applicable water quality standards, (2) cause a film, sheen, or discoloration of the surface of the water or the adjoining shoreline, or (3) cause a sludge or emulsion to be deposited beneath the surface of the water or the adjoining shoreline, 40 C.F.R. § 110.3. This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates a construction facility, All-Phase Concrete Construction, Inc., located at 3360 South Knox Court, Englewood, Colorado.

Respondent admits that on or about February 5, 2005, its facility discharged an unknown amount of oil into or upon Bear Creek and/or its adjoining shorelines.

Respondent's discharge from its facility caused a sheen upon, or discoloration of, and caused a sludge or emulsion to be deposited on the surface of Bear Creek and/or its adjoining shorelines.

Respondent's discharge constitutes a violation of Section 311 (b)(3) of the Act.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives their right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$500.00 for the discharge of oil in violation of Section 311(b)(3) of the Act, which shall be paid by sending, via certified mail, a cashier's or certified check for that amount, payable to "Oil Spill Liability Trust Fund" along with a signed copy of this agreement, to:

Jane Nakad
Technical Enforcement Program (8ENF-UFO)
USEPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

Respondent states, under penalty of perjury, that they have (1) investigated the cause of the spill, (2) cleaned up the spill pursuant to federal requirements, and (3) taken corrective actions to prevent future spills.

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance or has not cleaned up the discharged oil as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By: Elisabeth Evans
Elisabeth Evans, Director
Technical Enforcement Program

5/10/06
Date

All-Phase Concrete Construction, Inc., Respondent.

By: [Signature]
5/4/06
Date

Name: John H. F. Schneider
Title: VP

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter **ALL-PHASE CONCRETE CONSTRUCTION, INC., DOCKET NO.: CWA-08-2006-0027** was filed with the Regional Hearing Clerk on May 16, 2006.

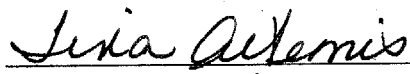
Further, the undersigned certifies that a true and correct copy of the document was delivered to David Janik, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on May 16, 2006, to:

John Hoffschneider
All-Phase Concrete Construction, Inc.
3360 South Knox Court
Englewood, CO 80110

And

Commander – National Pollution Funds Center
U. S. Coast Guard
Finance Center (OGR)
1430 A Kristina Way
Chesapeake, VA 23326

May 16, 2006


Tina Artemis
Regional Hearing Clerk



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